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GENERAL ASSEMBLY
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Agenda item 40
THE SITUATION IN CENTRAL AMERICA:
PROCEDURES FOR THE ESTABLISHMENT
OF A FIRM AND LASTING PEACE AND
PROGRESS IN FASHIONING A REGION
OF PEACE, FREEDOM, DEMOCRACY
AND DEVELOPMENT

SECURITY COUNCIL
Forty-ninth year

Letter dated 8 April 1994 from the Secretary-General to the President of the General Assembly and to the President of the Security Council

I have the honour to refer to my letter dated 17 January 1994 (A/49/61-S/1994/53), in which I informed the General Assembly of the signing on 10 January 1994 of a Framework Agreement for the Resumption of the Negotiating Process between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca. In that document the parties agreed on the modalities for resuming their negotiations, suspended since May 1993, and asked me to appoint a representative to serve as Moderator of the negotiations. I have since appointed to that post Mr. Jean Arnault, who had been participating in the peace talks as the United Nations observer since June 1992.

I am pleased to inform you that the first round of negotiations held since the adoption of the Framework Agreement was successfully concluded on 29 March with the signing, at Mexico City, of a Comprehensive Agreement on Human Rights, an Agreement on a Timetable for the Negotiation of a Firm and Lasting Peace in Guatemala and a joint statement of the two parties. Copies of these documents are attached.

The adoption of the Comprehensive Agreement on Human Rights, which had been under negotiation for more than two years, and of the timetable, which will serve as a guide for further negotiations, represents a milestone in the Guatemalan peace process and is encouraging evidence of the parties' commitment to reaching an early settlement through a comprehensive negotiating process after 30 years of armed confrontation. I have written to President de León Carpio and to the leadership of the Unidad Revolucionaria

Nacional Guatemalteca to express my satisfaction and to congratulate them on this remarkable achievement.

In the Comprehensive Agreement on Human Rights, the parties reiterated their decision in the Framework Agreement to request the United Nations to verify the implementation of all agreements reached between them. In this context, the parties are now requesting that the United Nations establish, at the earliest opportunity, a mission to verify implementation of the human rights agreement, without waiting for the signing of the Agreement for a Firm and Lasting Peace, which will conclude the negotiating process at the end of this year.

As indicated in my letter of 17 January, I believe that the United Nations should respond positively to the parties' request for international verification of the agreements reached between them. In that context, and in order to be able to estimate the resources required for a possible mission to verify the Comprehensive Agreement on Human Rights, I have decided to send a survey mission to Guatemala. 1/ I will present its conclusions, together with my recommendations, as soon as possible.

(Signed) Boutros BOUTROS-GHALI

Notes

1/ In order for the General Assembly to consider this matter, it will be necessary to reopen item 40 of the agenda of the forty-eighth session.

Annex I

Comprehensive Agreement Human Rights

Preamble

Taking into consideration the constitutional provisions in effect in respect of human rights and international treaties, conventions and other instruments on the subject to which Guatemala is a party,

Considering the wish of the Government of Guatemala and of the Unidad Revolucionaria Nacional Guatemalteca that the agreement on human rights and international verification be applied in accordance with the aforesaid constitutional provisions and international treaties,

Bearing in mind the commitment of the Government of Guatemala to respect and promote human rights in accordance with the constitutional mandate,

Considering further that the Unidad Revolucionaria Nacional Guatemalteca undertakes to respect the inherent attributes of the human being and to contribute to the effective enjoyment of human rights,

Recognizing the importance of national institutions and entities for the protection and promotion of human rights and the desirability of strengthening them and building them up,

The Government of the Republic of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, hereinafter referred to as "the Parties", hereby agree:

I. GENERAL COMMITMENT REGARDING HUMAN RIGHTS

1. The Government of the Republic of Guatemala reaffirms its adherence to the principles and norms designed to guarantee and protect the full observance of human rights, and its political will to enforce them.

2. The Government of the Republic of Guatemala shall continue to encourage all those measures designed to promote and perfect norms and mechanisms for the protection of human rights.

II. STRENGTHENING INSTITUTIONS FOR THE PROTECTION OF HUMAN RIGHTS

1. The Parties consider that any behaviour that limits, restricts or impairs the functions assigned to the judiciary, the Counsel for Human Rights and the Public Prosecutor's Office in respect of human rights undermines fundamental principles of the rule of law and that, accordingly, those institutions must be supported and strengthened in the exercise of those functions.

2. With regard to the judiciary and the Public Prosecutor's Office, the Government of the Republic of Guatemala reiterates its will to respect their autonomy and to protect the freedom of action of both vis-à-vis pressures of any type and origin, so that they may enjoy fully such guarantees and means as they may require in order to operate efficiently.

3. With regard to the Counsel for Human Rights, the Government of the Republic of Guatemala shall continue to support the latter's work so as to strengthen that institution, backing his actions and promoting such reforms of the enactments as may be needed to enable him to better carry out his functions and responsibilities. The Government of the Republic of Guatemala shall support initiatives designed to improve the technical and material conditions available to the Counsel for Human Rights in carrying out his tasks of investigation, monitoring and follow-up to ensure full enjoyment of human rights in Guatemala.

III. COMMITMENT AGAINST IMPUNITY

1. The Parties agree on the need for firm action against impunity. The Government shall not sponsor the adoption of legislative or any other type of measures designed to prevent the prosecution and punishment of persons responsible for human rights violations.

2. The Government of the Republic of Guatemala shall initiate in the legislature necessary legal amendments to the Penal Code so that enforced or involuntary disappearances and summary or extra-judicial executions may be characterized as crimes of particular gravity and punished as such; likewise, the Government shall foster in the international community, recognition of enforced or involuntary disappearances and of summary or extra-judicial executions as crimes against humanity.

3. No special law or exclusive jurisdiction may be invoked to uphold impunity in respect of human rights violations.

IV. COMMITMENT THAT THERE ARE NO ILLEGAL SECURITY FORCES AND CLANDESTINE MACHINERY; REGULATION OF THE BEARING OF ARMS

1. In order to maintain unlimited respect for human rights, there must be no illegal security forces nor any clandestine security machinery. The Government of Guatemala recognizes that it has an obligation to combat any manifestation thereof.

2. The Government of the Republic of Guatemala reiterates its commitment to continue with the purification and professionalization of the security forces. It also expresses the need to continue with the adoption and implementation of effective measures so as to provide specific regulations governing the possession, bearing and use of firearms by individuals, in accordance with the law.

V. GUARANTEES REGARDING FREEDOM OF ASSOCIATION AND FREEDOM OF MOVEMENT

1. Both Parties agree that the freedoms of association and of movement are internationally and constitutionally recognized human rights which must be exercised in accordance with the law and must be fully enjoyed in Guatemala.

2. In the exercise of his functions, the Counsel for Human Rights shall be responsible for establishing whether members of the volunteer civil defence committees have been compelled to join those committees against their will or whether their human rights have been violated.

3. Upon receiving a complaint the Counsel for Human Rights shall immediately conduct the necessary investigations. For that purpose, after publicly announcing that such committees must be made up of persons who have joined of their own free will, and must observe the law and human rights, he shall conduct consultations in the villages, making sure that, in such case, committee members express their wishes freely and without any pressure.

4. Should it be established that some people have not joined of their own free will or that there have been violations of the legal order, the Counsel shall take whatever decisions he may deem necessary and shall initiate corresponding judicial or administrative action to punish the human rights violations.

5. The Government of Guatemala shall unilaterally declare that it shall not encourage the organization of nor shall it establish further volunteer civil defence committees in any part of the national territory provided that there is no reason for it to do so. For its part, the Unidad Revolucionaria Nacional Guatemalteca sees the unilateral statement as a positive expression of the Government's will to achieve peace and shall contribute to the aims of such declaration.

6. In the event of a complaint, the residents affected shall go to the town mayor who at the same time shall convene a public meeting and shall call the Counsel for Human Rights to verify, by all means at his disposal, whether or not the residents acted of their own free will.

7. Both Parties agree that other aspects of the volunteer civil defence committees shall be dealt with later, in connection with other items on the general agenda.

8. The Parties recognize the work done by the Office of the Counsel for Human Rights with regard to education and information, and request that the latter should include in its work information regarding the content and scope of the present agreement.

VI. MILITARY CONSCRIPTION

1. Conscription for compulsory military service must not be forced, nor should it be cause for a violation of human rights and, therefore, while military service should continue to be a civic duty and right, it must be just and non-discriminatory.

2. To that end, for its part, the Government of the Republic of Guatemala shall continue to adopt and implement the necessary administrative decisions and shall initiate, as soon as possible and in the spirit of this agreement, a new Military Service Act.

VII. SAFEGUARDS AND PROTECTION OF INDIVIDUALS AND ENTITIES WORKING FOR THE PROTECTION OF HUMAN RIGHTS

1. The Parties agree that all acts which may affect the safeguards of those individuals or entities working for the promotion and protection of human rights are to be condemned.

2. Accordingly, the Government of the Republic of Guatemala shall take special measures to protect those persons or entities working in the field of human rights. Furthermore it shall investigate, in a timely and exhaustive manner, any complaint it may receive relating to acts or threats that may be directed at them.

3. The Government of the Republic of Guatemala reiterates the commitment to safeguard and protect effectively the work of individuals and entities engaged in upholding human rights.

VIII. COMPENSATION AND/OR ASSISTANCE TO THE VICTIMS OF HUMAN RIGHTS VIOLATIONS

1. The Parties recognize that it is a humanitarian duty to compensate and/or assist victims of human rights violations. Said compensation and/or assistance shall be effected by means of government measures and programmes of a civilian and socio-economic nature addressed, as a matter of priority, to those whose need is greatest, given their economic and social position.

IX. HUMAN RIGHTS AND INTERNAL ARMED CONFRONTATION

1. Until such time as the firm and lasting peace agreement is signed, both Parties recognize the need to put a stop to suffering of the civilian population and to respect the human rights of those wounded, captured and those who have remained out of combat.

2. These statements by the Parties do not constitute a special agreement, in the terms of article 3 (Common), paragraph 2, second subparagraph of the Geneva Conventions of 1949.

X. INTERNATIONAL VERIFICATION BY THE UNITED NATIONS

1. The Parties reaffirm the decision stated in the Framework Agreement of 10 January 1994 that all the agreements must be accompanied by appropriate national and international verification mechanisms, and that the latter must be the responsibility of the United Nations.

2. In this context the Parties agree to request the Secretary-General of the United Nations to organize a mission for the verification of human rights and of compliance with the commitments of the agreement. The mission will be a component of the overall verification of the firm and lasting peace agreement which the parties undertook to sign within the shortest possible time during the current year.

3. The Parties recognize the importance of the role of the national institutions responsible for enforcing, monitoring and safeguarding human rights, such as the judiciary, the Public Prosecutors Office and the Counsel for Human Rights, and they emphasized the role of the latter, in particular.

4. The Parties agree to ask the Secretary-General of the United Nations that the mission for the verification of the agreement be established with the following in mind:

Functions

5. In verifying human rights, the mission shall carry out the following functions:

(a) Receive, consider and follow-up complaints regarding possible human rights violations;

(b) Establish that the competent national institutions are carrying out the necessary investigations autonomously, effectively and in accordance with the political constitution of the Republic of Guatemala and international norms regarding human rights;

(c) Determine whether or not a violation of human rights has occurred on the basis of whatever information it may obtain in the exercise of the powers referred to in paragraph 10, subparagraphs (a), (b), (c) and (d), taking into consideration any investigations that the competent constitutional institutions may carry out.

6. In verifying the other commitments set forth in the present agreement, the mission shall determine whether it is being fully implemented by the parties.

7. According to the findings of its verification activities, the mission shall make recommendations to the Parties, in particular regarding measures necessary to promote full observance of human rights and faithful implementation of the present agreement as a whole.

8. Bilateral talks shall be instituted between the mission and each one of the Parties so that the latter may make observations regarding the mission's

recommendations and so as to facilitate implementation of the above-mentioned measures.

9. The mission shall report regularly to the Secretary-General of the United Nations, who shall report to the competent bodies of that Organization. Copies of these reports shall be transmitted to the Parties.

10. The mission shall be empowered to:

(a) Establish itself and move freely throughout the national territory;

(b) Interview any person or group of persons freely and privately for the proper performance of its functions;

(c) Visit government offices and Unidad Revolucionaria Nacional Guatemalteca encampments freely and without prior notice when this is deemed necessary for the performance of its functions;

(d) Collect whatever information may be relevant for the implementation of its mandate.

11. The mission may disseminate information relating to its functions and activities to the Guatemalan public through the mass media.

12. In verifying the observance of human rights, the mission shall pay particular attention to the rights to life, integrity and security of person, to individual liberty, to due process, to freedom of expression, to freedom of movement, to freedom of association and to political rights.

13. In the performance of its functions the mission shall take into account the situation of the most vulnerable groups of society and to the population directly affected by the armed confrontation (including displaced persons, refugees and returnees).

14. The mission's activities shall relate to events and situations subsequent to the mission's installation.

15. For purposes of implementation of the general commitment regarding human rights (chapter I of the present agreement), the Parties understand human rights as meaning those rights which are recognized in the Guatemalan legal order including international treaties, conventions and other instruments on the subject to which Guatemala is a party.

<u>Cooperation and support for national institutions for the protection of human rights</u>

16. The Parties agree in acknowledging that international verification must contribute to strengthening the permanent constitutional mechanisms and other national governmental and non-governmental entities for the protection of human rights. In order to support them, the verification mission shall be empowered to:

(a) Cooperate with national institutions and entities, as necessary, for the effective protection and promotion of human rights and, in particular sponsor technical cooperation programmes and carry out institution-building activities;

(b) Offer its support to the judiciary and its auxiliary organs, the Public Prosecutor's Office, the Counsel for Human Rights and the Presidential Human Rights Committee in order to contribute to the development and strengthening of national institutions for the protection of human rights and due legal process;

(c) Promote the international technical and financial cooperation required to strengthen the capacity of the Counsel for Human Rights and that of other national institutions and entities to carry out their functions in respect of human rights;

(d) Contribute, in cooperation with the State and the various bodies of society, to encouraging a culture of respect for human rights.

Duration and structure of the mission

17. The mission shall initially be established for one year and its mandate may be renewed.

18. The verification mission shall be headed by a chief, appointed by the Secretary-General of the United Nations, assisted by such international and national officials and experts in various specialities as may be needed to achieve the aims of the mission. The Government of Guatemala and the mission shall sign the relevant headquarters agreement, in accordance with the Convention on the Privileges and Immunities of the United Nations of 1946.

Launching of the international verification mission

19. Taking into consideration its wish to promote human rights in Guatemala, and the fact that the provisions of the present agreement reflect constitutional rights that are already set forth in Guatemala's legal order and considering the role of the international mission to strengthen national institutions and entities for the protection of human rights, in particular the Counsel for Human Rights, the Parties recognize that it is desirable, as an exceptional measure, that verification of the human rights agreement should commence prior to the signing of the firm and lasting peace agreement.

20. Since the verification mission is to begin its functions prior to the end of the armed confrontation, and thus while military operations continue, the mission shall make the necessary security arrangements.

21. The Parties agree immediately to ask the Secretary-General of the United Nations to send a preliminary mission as soon as possible to prepare, in coordination with the Parties, the establishment of the mission at the earliest possible date, and to evaluate the financial and technical needs essential for verification of the agreement on human rights.

Cooperation of the Parties with the verification mission

22. The Parties undertake to provide their broadest support to the mission and, to that end, they pledge to provide it with whatever cooperation it may need in order to carry out its functions; in particular to see to the safety of members of the mission and of persons submitting complaints or giving testimony to the mission.

23. The international verification carried out by the mission shall be carried out within the framework of the provisions of the present agreement. Any situation that may arise regarding the scope of the agreement shall be resolved by means of the talks provided for in paragraph 8 above.

XI. FINAL PROVISIONS

1. The present agreement shall enter into force as from the date of its signature by the Parties.

2. The present agreement shall form part of the firm and lasting peace agreement.

3. A copy of the present agreement shall be transmitted by the Parties to the Secretary-General of the United Nations and to the Counsel for Human Rights.

4. The present agreement shall be widely disseminated throughout Guatemala, in the Spanish and indigenous languages. This task shall be the responsibility of the Counsel for Human Rights and the relevant government offices.

Done at Mexico, D.F. on 29 March 1994.

For the Government of the Republic of Guatemala

(Signed)

Héctor ROSADA GRANADOS

(Signed)

Antonio F. ARENALES FORNO

(Signed)

Mario PERMUTH

(Signed)

Ernesto VITERI ECHEVERRIA

(Signed)

General Carlos Enrique PINEDA CARRANZA

(Signed)

General Julio Arnoldo BALCONI TURCIOS

(Signed)

General José Horacio SOTO SALAN

For the Unidad Revolucionaria Nacional Guatemalteca

General Command

(Signed)

Commander Pablo MONSANTO

(Signed)

Commander Gaspar ILOM

(Signed)

Commander Rolando MORAN

(Signed)

Carlos GONZALES

Political and Diplomatic Commission

(Signed)

Luis Felipe BECKER GUZMAN

(Signed)

Francisco VILLAGRAN MUÑOZ

(Signed)

Miguel Angel SANDOVAL VASQUEZ

(Signed)

Mario Vinicio CASTAÑEDA PAZ

For the United Nations

(Signed)

Marrack GOULDING
Under-Secretary-General

(Signed)

Jean ARNAULT
Moderator

Annex II

Agreement on a timetable for negotiations of a firm and lasting peace in Guatemala

Reiterating the decision stated in the Framework Agreement of 10 January 1994 (A/49/61-S/1994/53, annex), to negotiate on all the items included in the general agenda adopted in Mexico in April 1991,

Reaffirming their commitment to arrive at a firm and lasting peace agreement within the shortest possible time during 1994,

Reaffirming the role which must be played by the Assembly representing society at large in discussion of the substantive issues on the agenda,

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, hereafter referred to as "the Parties", hereby agree:

1. To establish the following timetable for discussion of outstanding items on the agenda for the negotiations as a guide for the continuation of their work:

May 1994. negotiations on the item: Resettlement of the population uprooted by the armed confrontation. Signing of agreement.

June 1994. negotiations on the item: Identity and rights of indigenous peoples. Signing of agreement.

July 1994. negotiations on the item: Socio-economic aspects and agrarian situation. Signing of agreement.

August 1994. negotiations on the item: Strengthening of civilian power and role of the army in a democratic society.

September 1994. negotiations on the items: Bases for the reintegration of Unidad Revolucionaria Nacional Guatemalteca in the political life of Guatemala and agreement on a definitive cease-fire. Signing of three preceding agreements.

October 1994. negotiations on the item: Constitutional reforms and electoral regime. Signing of agreement.

November 1994. negotiation on the item: Schedule for the implementation, enforcement and verification of the agreements. Signing of agreement.

December 1994. Signing of a firm and lasting peace agreement and start of demobilization.

2. Depending on requirements for ensuring the success of negotiations, the Parties may agree on adjustments to the present timetable.

3. The moderator, in consultation with the Parties, shall set the specific date of each of the negotiating rounds. Similarly, he shall set, in consultation with the Parties and the President of the Assembly representing society at large, the most appropriate dates for holding special sessions so that the Assembly's recommendations and guidelines on substantive issues may reach the Parties in good time.

4. In accordance with the provisions of the Framework Agreement of 10 January 1994, the Parties shall take these recommendations and guidelines into consideration.

5. As basic documents for the negotiations on the substantive issues, the Parties agreed to use, in their original or updated form, the documents entitled "A just and democratic peace: content of the negotiation" published by Unidad Revolucionaria Nacional Guatemalteca in May 1992, and "Peace is not just the absence of war but the creation of all the conditions which enable man to live without anxiety or fear" published by the Government of Guatemala in June 1992. The Parties shall submit their proposals in good time so that the other Party can consider them and so that they can be discussed at the corresponding rounds.

6. The Parties reiterate the desirability of resorting to all measures that will be conducive to rapprochements and agreements between them, and agree to respond to the initiatives made by the moderator in this respect.

Done at Mexico, D.F., on 29 March 1994

For the Government of the Republic of Guatemala

(Signed)

Héctor ROSADA GRANADOS

(Signed)

Antonio F. ARENALES FORNO

(Signed)

Mario PERMUTH

(Signed)

Ernesto VITERI ECHEVERRIA

(Signed)

General Carlos Enrique PINEDA CARRANZA

(Signed)

General Julio Arnoldo BALCONI TURCIOS

(Signed)

General José Horacio SOTO SALAN

For the Unidad Revolucionaria Nacional Guatemalteca

General Command

(Signed)

Commander Pablo MONSANTO

(Signed)

Commander Gaspar ILOM

(Signed)

Commander Rolando MORAN

(Signed)

Carlos GONZALES

Political and Diplomatic Commission

(Signed)

Luis Felipe BECKER GUZMAN

(Signed)

Francisco VILLAGRAN MUÑOZ

(Signed)

Miguel Angel SANDOVAL VASQUEZ

(Signed)

Mario Vinicio CASTAÑEDA PAZ
Adviser

For the United Nations

(Signed)

Marrack GOULDING
Under-Secretary-General

(Signed)

Jean ARNAULT
Moderator

Annex III

Joint Statement by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca

In order to facilitate the signing of the agreement on human rights, a historic achievement in the Guatemala peace process, the Parties have decided that consideration of the item regarding the Commission to look into human rights violations during the armed confrontation shall be concluded at a special session of the negotiations, without prejudice to existing rapprochements on the subject. For that purpose, the Parties have asked the Moderator to proceed with the consultations that may be necessary and to convene said special session in the month of May 1994.

(Signed)

Héctor ROSADA GRANADOS
Coordinator of the Commission
for Peace of the Government
of Guatemala

(Signed)

Pablo MONSANTO
Coordinator of the Delegation
of the Unidad Revolucionaria
Nacional Guatemalteca

(Signed)

Jean ARNAULT
Moderator